

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
vs.)	No. 04-MC-9030-RED
)	
RON HOSTETLER,)	
)	
Respondent.)	

ORDER

On August 4, 2004, the United States filed its Petition to Enforce Internal Revenue Service Summons against respondent Ron Hostetler. On January 6, 2005, and after a hearing, the Honorable James C. England, United States Magistrate Judge, filed a Report and Recommendation (Doc. 15), finding that the United States met its burden to establish a *prima facie* case in seeking enforcement of an IRS summons and that respondent did nothing to disprove a valid civil purpose and recommending that the petition be granted. Respondent did not object to the Report and Recommendation, and this Court ordered the petition enforced. *See* Order (Doc. 16). Thereafter, respondent filed objections to the Report and Recommendation of the Magistrate Judge (Doc. 19).

Although not timely filed, the Court considered the objections as a Motion for Reconsideration. Because respondent asserted that he did not receive notice of the Report and Recommendation, the Motion for Reconsideration was reviewed on its merits. On March 24, 2005, the motion was denied and the summons was again ordered enforced. *See* Order (Doc. 22). On April 29, 2005, the United States moved for an Order to Show Cause for respondent to show cause why he should not be held in contempt for failing to comply with this Court's order enforcing the summons. On May 6, 2005, respondent filed suggestions in opposition to the Motion to Show Cause (Doc. 25), and, on July 12,

2005, filed a Verified Motion for Summary Judgment (Docs. 28, 29). On August 2, 2005, the United States filed its suggestions in opposition to the motion (Doc. 30). On August 11, 2005, the Magistrate Judge entered the Report and Recommendation presently before this Court (Doc. 31). In it, he recommended that the Summary Judgment Motion be denied and that the respondent be directed to appear with proof of compliance with the Revenue Service Summons on a date set by the undersigned, or in the alternative, show cause why he should not be taken into custody for contempt of court. Respondent then filed a 10-page objection to the Report and Recommendation of the United States Magistrate Judge (Doc. 32). In it, he argues that the Court and the Internal Revenue Service lack jurisdiction. The United States has filed its Reply to the objections of Respondent to the Report and Recommendations of the Magistrate Judge (Doc. 33).

Respondent's objection and Motion for Summary Judgment again attack the validity of the summons. Such validity cannot be argued. The Court has already ordered that the summons be enforced. Accordingly, upon review of the record, it is hereby

ORDERED that defendant's Motion for Summary Judgment (Docs. 28, 29) be denied. It is further

ORDERED that defendant's Objections (Doc. 32) are overruled, and the Report and Recommendation of the United States Magistrate Judge is adopted in full. It is further

ORDERED that the parties shall appear on September 9, 2005, at 9:00 a.m., before the undersigned, United States Courthouse, Third Floor, 222 North John Q. Hammons Parkway, Springfield, Missouri. The respondent shall appear with proof of compliance with the Revenue Service Summons or, in the alternative, show cause why he should not be taken into custody for contempt of court. It is further

ORDERED that a copy of this Order shall be mailed via first class mail, postage prepaid, and by certified mail, return receipt requested, to Ronald E. Hostetler, 920 Winningham Road, Seymour, Missouri, 65746.

/s/ Richard E. Dorr
RICHARD E. DORR
UNITED STATES DISTRICT JUDGE

Date: August 19, 2005